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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,223	02/16/2000	Jonathan C. Kagle	M61.12-0161	6661

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EXAMINER

GENCO, BRIAN C

ART UNIT PAPER NUMBER

2615

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/505,223

Applicant(s)

KAGLE ET AL.

Examiner

Brian C Genco

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-12, 15, 17-20 and 25 is/are pending in the application.
- 4a) Of the above claim(s) 4, 8-12 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 15, 17-19, and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Applicant's amendment to the claims filed December 9, 2004 have overcome the grounds of rejection previously presented.

Election/Restrictions

Examiner notes that by amending claims 1 and 17 to include limitations from canceled claims 14 and 24 respectively drawn to elected Species III, claims 1 and 17 are no longer generic claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3, 5, 15, 17-19, and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In regards to claims 1 and 17 Applicant has added a limitation of generating final image data by modifying the second set of image data. There is no support for this limitation in the specification. Rather, the specification teaches that the pre-capture process is applied to all of the image data for the second set of image data. Inherent to the specification this processing

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would lead to the generation of final image data, however there is no description or suggestion that the final image data is generated by modifying the second set of image data.

Claims 2, 3, 5, 15, 18, 19, and 25 depend from claim 1.

Further, in regards to claims 2, 3, 18, and 19 there is no support in the specification for any particular pre-processing function to be utilized with the embodiment claimed in claims 1 and 17. Examiner notes that this embodiment is described on page 11, line 5 – page 12, line 9. There is no reference made as to what the pre-processing function was.

Claims 1-3 and 5 rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for performing **the same** at least one pre-capture processing function on a portion of the second set of image data to produce a test result and comparing the test result to **the** pre-capture result, does not reasonably provide enablement for performing at least one pre-capture processing function on a portion of the second set of image data to produce a test result and comparing the test result to a pre-capture result. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims.

As broadly as claimed the limitation can be read and interpreted as performing (any) at least one pre-capture processing function on a portion of the second set of image data to produce a test result and comparing the test result to (any) pre-capture result. In order to find support in the specification the claims must be interpreted as indicated above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by (USPN 5,189,519 to Miyamoto et al.).

In regards to claim 1 Miyamoto discloses a method of capturing images in a camera, the method comprising:

acquiring a first set of image data based on a first frame of light entering the camera (e.g., the frame of light captured by the light measuring element 28 of Fig. 10);

performing at least one pre-capture processing function on the first set of image data to produce a pre-capture result (e.g., generating an exposure condition based on the output of the light measuring element; column 13, lines 35-37; note column 5, lines 46-56 for a detailed explanation of this process);

acquiring a second set of image data based on a second frame of light entering the camera (e.g., performing an exposure operation with the image sensor element 1 of Fig. 10; column 13, lines 35-38);

performing at least one pre-capture processing function on a portion of the second set of image data to produce a test result and comparing the test result to a pre-capture result (e.g., testing the exposure of the image to determine whether it lies within a predetermined range wherein the claimed pre-capture processing is determining the exposure of the image and the

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pre-capture result is the reference predetermined range to which the image is being compared; column 13, lines 38-42);

generating final image data by modifying the second set of image data (e.g., the image data is modified to generate final image data through a number of elements, i.e., the signal processing circuit element 8, the A/D converter element 35'', and the recording element 34. Examiner notes the image data is modified by the recording element by modulating the image data as described more in detail on column 5, lines 27-31 and 60-62; the image data is determined to be final image data if it is within the predetermined range).

In regards to claim 3 Miyamoto discloses wherein performing at least one pre-capture processing function comprises performing a contrast adjustment function to produce a contrast value as the pre-capture result (e.g., an exposure condition is a contrast value).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian C. Genco who can be reached by phone at 571-272-7364 or by fax at 571-273-7364. The examiner can normally be reached on Monday thru Friday 8:30am to 4:30 pm.

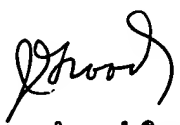
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached at 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the customer service office whose telephone number is 571-272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian C Genco
Examiner
Art Unit 2615

April 5, 2005


James J. Groody
Supervisory Patent Examiner
Art Unit-262 2615